

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 706 of 2000

in

SPECIAL CIVIL APPLICATION No 4959 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT

Versus

CHANDUJI PRATAPJI THAKOR THROUGH BRANCH SECRETARY

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Appearance:

Mr V M Pancholi, AGP for M/S PATEL ADVOCATES for Appellants

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CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE D.P.BUCH

Date of decision: 04/12/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

The main challenge in this Letters Patent Appeal under Clause 15 of the Letters Patent is against the interim order recorded by the learned Single Judge on 20.7.1999 in Civil Application No.11238/98 in Special Civil Application No.4959/95, whereby, during the pendency of the main petition, in the light of the award of the competent Labour Court, which has become final right upto the Hon'ble Apex Court, following directions were issued:

"The respondent nos.1 and 2 are directed to consider the cases of the employees whose names were submitted by the Union in the list and to consider in light of the award dated 11.5.1992 whether they are entitled to the benefits of the award or not and if so, the benefits under the award should be given to them within a period of two months from today. Direct Service is permitted."

2. After having heard the learned Assistant Government Pleader and considering the fact that the award recorded by the Industrial Tribunal, the watchmen who are engaged for protection of plantation, are required to be regularized on completion of 960 days of service. The award was not implemented hence, one of the Unions filed contempt application before this court. On the assurance of the respondents-appellant herein that they will implement the award in favour of the watchman, a list was supplied by the Union to the respondents, out of which 175 watchmen were already regularized. The contention which was advanced by the original claimants-respondents herein, has been that the employees working as watchmen and who are included in the list of the main petition were considered by the appellants. It was also further contended that not only that their cases were not considered but cases of juniors were considered and they came to be regularized.

3. Unfortunately, in the said application, no counter was filed. No affidavit was filed, no reason was assigned as to why the award was not implemented. In the light of the peculiar facts and circumstances and as no opposition raised on behalf of the appellants-original respondents herein, the learned Single Judge has passed

the aforesaid directions during the pendency of the writ petition of the watchmen, after having examined the text, the context and the tenor of the order, some direction to consider the case of the persons whose names are furnished in a list by the Union, could not be said to be at this stage, in any way vulnerable, or in any way requiring our interference in exercise of our powers under Clause 15 of the Letters Patent. The direction is only to the effect that the cases will be considered and if the eligibility or the entitlement is found in case such persons, it will be for the authority to accord the benefit. Mere direction for consideration cannot be said to be unjust, unreasonable or perverse. More so, in a case where the award in favour of the workmen has been recorded by the competent Industrial Court long before, which has become final upto the stage of the Hon'ble Apex Court and again more so, when the writ petition for implementation of the said award has been yet not finalised, which is of 1995.

In the result, this appeal deserves to be rejected at the threshold. Accordingly it is rejected. No order as to costs.

4.12.2000 [J N Bhatt, J]  
msp

[D P Buch, J.]